

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:17 cr 150**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>v.</b>	)	<b>ORDER</b>
	)	
<b>FIELDING LANIER BOLTON III,</b>	)	
	)	
<b>Defendant.</b>	)	
<hr/>	)	

This matter is before the Court following a Rule 11 proceeding that was held before this Court on July 18, 2018. Defendant was present with his attorney Theadore Besen, and the Government was present and represented through AUSA David Thorneloe. After hearing arguments from Defendant and the Government and reviewing the record, the Court makes the following finding.

**Findings.** On December 5, 2017, the grand jury issued an indictment charging Defendant with transporting child pornography, in violation of 18 U.S.C. § 2252A(a)(1); receiving child pornography, in violation of 18 U.S.C. § 2252A(a)(2)(A); and possession with intent to view child pornography involving a minor who had not attained 12 years of age, in violation of 18 U.S.C. § 2252A(a)(5)(B). On July 18, 2018, the Court held a Rule 11 inquiry and accepted Defendant's plea of guilty to Count Three, 18 U.S.C. § 2252A(a)(5)(B), of the indictment. Following the Rule 11 proceeding, the Court was presented with the issue of whether Defendant should now be detained, pursuant to 18 U.S.C. § 3143(a)(2).

**Discussion.** 18 U.S.C. § 3143(a)(2) provides as follows:

(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and is awaiting imposition or execution of sentence be detained unless—

- (A) (i) the judicial officer finds there is a substantial likelihood that a motion for acquittal or new trial will be granted; or
- (ii) an attorney for the Government has recommended that no sentence of imprisonment be imposed on the person; or
- (B) the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to any other person or the community.

On July 18, 2018, Defendant pled guilty to 18 U.S.C. § 2252A(a)(5)(B). That crime is one of the crimes enumerated under 18 U.S.C. § 3142(f)(1)(A). AUSA David Thorneloe advised the Court that the Government would not be recommending that no sentence of imprisonment be imposed on Defendant. As a result, the Court cannot find that there is a substantial likelihood that a motion for acquittal or new trial will be granted. It appears then that the Court should apply the factors as set forth under 18 U.S.C. § 3143(a)(2) that require the detention of Defendant.

### **ORDER**

**IT IS, THEREFORE, ORDERED** that the unsecured bond [# 5] and terms and conditions of pretrial release [# 4] entered in this matter are hereby **REVOKED** and it is **ORDERED** that Defendant shall be detained pending further proceedings in this matter.

Signed: July 18, 2018



Dennis L. Howell  
United States Magistrate Judge

